

11-01-1999

TS DOCKET NO. 8130.102087

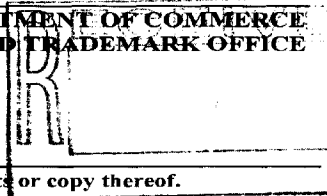
MRO 10/27/99
FORM PTO 1594



101187453

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY



To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

| | |
|--|---|
| <p>1. Name of conveying Party(ies): NetOptix Corporation Optical Filter Corporation Leisegang Medical, Inc.</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> | <p>2. Name and address of receiving party(ies): Name: Deutsche Financial Services Corporation Internal Address: Suite 700 Street Address: 3225 Cumberland Boulevard City: Atlanta State: Georgia Zip: 30339</p> <p><input type="checkbox"/> Individual(s) citizenship <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation State Nevada <input type="checkbox"/> Other</p> <p>If assignee is not domiciled in the United States, a domestic representative designation is attached <input type="checkbox"/> Yes <input type="checkbox"/> No (Designations must be separate from assignment)</p> <p>Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> |
| <p>3. Nature of conveyance:</p> <p><input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input checked="" type="checkbox"/> Security Agreement <input type="checkbox"/> Change of name <input type="checkbox"/> Other - Release</p> <p>Execution Date: September 30, 1999</p> | |

4. Application number(s) or registration number(s):

| | |
|--|--|
| <p>A. Trademark Application No.(s)</p> | <p>B. Trademark Registration No.(s)</p> <p>1,673,693 1,914,137 2,099,215 1,702,966 1,942,140 1,855,588 1,942,536 1,873,645 2,025,654</p> <p>Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> |
|--|--|

| | |
|---|--|
| <p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Name: Wm. Brook Lafferty, Esq. Internal Address: Troutman Sanders LLP Street Address: 600 Peachtree Street, N.E. Suite 5200 City: Atlanta State: GA Zip: 30308-2216</p> | <p>6. Total number of applications and registrations involved: <u>9</u></p> <p>7. Total fee (37 CFR 3.41) \$<u>240.00</u> <u>X</u> Enclosed _____ Authorized to be charged to deposit account</p> <p>(Attach duplicate copy of this page if paying by deposit account)</p> |
|---|--|

DO NOT USE THIS SPACE

9. Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Wm. Brook Lafferty Wm. Brook Lafferty 270/99
Name of Person Signing Signature Date

Total number of pages comprising cover sheet: 15

OMB No. 0651-0011 (exp. 4/94) ----- DO NOT DETACH THIS PORTION -----

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark office, Office of Information Systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C. 20503.

10/29/1999 NTHA11 00000274 1673693
01 FC:481
02 FC:482
0478465.02
40.00 OP
200.00 OP

TRADEMARK
REEL: 001982 FRAME: 0255

CONDITIONAL ASSIGNMENT AND TRADEMARK SECURITY AGREEMENT

THIS CONDITIONAL ASSIGNMENT AND TRADEMARK SECURITY AGREEMENT (the "Agreement") is made as of the 30th day of September, 1999, by the Obligors referred to below in favor of the Agent, for the benefit of the Lenders (as such terms are defined below).

WHEREAS, NetOptix Corporation, a Delaware corporation ("NetOptix"), Optical Filter Corporation, a Delaware corporation ("OFC") and Leisegang Medical, Inc., a Florida corporation ("Leisegang"; NetOptix, OFC and Leisegang are hereafter referred to individually as an "Obligor" and collectively as the "Obligors"), certain affiliates of the Obligors, certain financial institutions (collectively, the "Lenders") and Deutsche Financial Services Corporation, as agent for the Lenders (in such capacity, the "Agent"), have entered into a Loan and Security Agreement of even date herewith (as amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement"; capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement), pursuant to which the Lenders have agreed to make certain loans and other financial accommodations available to the Obligors (the "Loans"); and

WHEREAS, the Obligors will derive substantial benefits, both directly and indirectly, from the Loans; and

WHEREAS, in order to induce the Agent and the Lenders to enter into the Loan Agreement and to make the Loans, the Obligors have agreed to assign to the Agent, for the ratable benefit of the Lenders, certain trademark rights as described herein.

NOW, THEREFORE, in consideration of the premises, the Obligors hereby agree with the Agent as follows:

1. Grant of Security Interest.

To secure the complete and timely payment and performance of all Obligations, each Obligor hereby grants, assigns and conveys to the Agent, for the ratable benefit of the Lenders, a security interest in such Obligor's entire world-wide right, title and interest in and to the trademarks and their respective registrations and applications for registration listed in **Schedule A** attached hereto and by reference made a part hereof, together with the goodwill of the business symbolized by the trademarks, all licenses relating thereto, and all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), and the right to sue for past, present and future infringements (all of which trademarks, trademark registrations, applications for registration, goodwill, licenses, proceeds, and other rights are collectively called the "Trademarks").

2. Representations and Warranties.

Each Obligor represents and warrants that with respect to any Trademark owned by such Obligor:

(a) The Trademarks are subsisting and have not been adjudged invalid or unenforceable, in whole or in part, in the United States of America (the "U.S.") or in any of the respective states thereof;

(b) The Trademarks listed on **Schedule A** constitute all of the trademark applications and registrations owned by any Obligor;

(c) Each of the Trademarks is valid and enforceable in the U.S. and the respective states thereof and all claims by others to rights in the Trademarks of which any Obligor is aware, including, without limitation, licenses, are noted on **Schedule B** attached hereto and by reference made a part hereof;

(d) Except as noted on **Schedule B**, the Obligor listed on **Schedule A** as the owner of one or more Trademarks is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to such Trademarks, free and clear of any liens, charges, encumbrances, mortgages, hypothecations, pledges, liens, security interests or claims of any kind, including, without limitation, covenants by such Obligor not to sue third persons and licenses;

(e) Each Obligor has made all necessary applications, filings and recordations to protect and maintain its interest in the Trademarks listed on **Schedule A**, including, without limitation, all necessary filings and recordations in the U.S. Patent and Trademark Office; and

(f) Each Obligor has the unqualified right, power and authority to execute, deliver and perform this Agreement.

3. Conditional Grant of Security Interest in Additional Trademarks.

If, before the Obligations shall have been satisfied in full and the Commitments shall have been terminated, any Obligor shall have or obtain ownership of any trademark, including any registration or application therefor, with respect to goods sold (the "Goods") and services rendered (the "Services") in any Obligor's business, the provisions of Paragraph 1 shall automatically apply thereto, and also to any composite marks or other marks of any Obligor which are confusingly similar to such mark, and Obligor shall give to the Agent prompt written notice thereof. This Paragraph 3 shall not apply to trademarks which are owned by others and licensed to any Obligor. Each Obligor shall perform all acts and execute all documents reasonably requested (including any amendments hereto) by the Agent at any time and from time to time to evidence, perfect, maintain, record and enforce the Agent's security interest in the Trademarks, including, without limitation, any trademarks falling under this Paragraph 3.

4. Modification of Agreement.

If the Obligors fail to perform their obligations under Paragraph 3 hereof, each Obligor authorizes the Agent to modify this Agreement by amending **Schedule A** to include any additional trademarks, registrations and applications for registration thereof which are Trademarks under Paragraph 1 or Paragraph 3 hereof, and to have this Agreement, as amended, or any other document evidencing the security interest granted therein, recorded in the U.S. Patent and Trademark Office at the expense of the Obligors. The representations and warranties of the Obligors shall be deemed to be remade and restated by each Obligor as of the date of the amendment of **Schedule A** with respect to all Trademarks listed on the amended **Schedule A** at that time.

5. Covenants of Obligors.

(a) Each Obligor covenants as follows: (i) it will maintain the high standard of quality which has become associated with the Trademarks; and (ii) the Agent from time to time and upon request shall have the right to inspect samples of the Goods, the procedures and facilities used to provide Services, the premises at which the Goods are produced and at which the Services are performed and records relating to the Trademarks at the premises where such records are kept; and (iii) the Agent shall have the right, during the existence of an Event of Default, to prevent use of the Trademarks on Goods and Services which are not of high quality, all so as to preserve the goodwill symbolized by the Trademarks.

(b) Each Obligor further agrees that: (i) it will use and not abandon or do any act or omit to do any act that may cause or contribute to the abandonment of any Trademark, or permit the expiration of any registration of any Trademark listed on **Schedule A**; (ii) it shall give the Agent written notice, and a complete copy, of any sublicense of any Trademark; and (iii) all uses of the Trademarks by it or its permitted sublicensees will include such notices of registration as are required or authorized from time to time under applicable law.

(c) With respect to each Trademark listed on **Schedule A**, each Obligor agrees to take all necessary steps, including, without limitation, in the U.S. Patent and Trademark Office or in any court, to (i) maintain each such Trademark, and (ii) pursue each such application for trademark registration, now or hereafter included in the Trademarks under this Agreement, including, without limitation, the filing of responses to office actions issued by the U.S. Patent and Trademark Office, the filing of applications for renewal, the filing of affidavits under Sections 8 and 15 of the United States Trademark Act, the participation in opposition, cancellation and infringement and misappropriation proceedings and the payment of fees and taxes incurred in connection therewith. Notwithstanding the foregoing, if any Obligor determines that any such Trademark is not material to such Obligor's business, such Obligor may, with the prior written consent of the Agent, elect not to pursue any such infringement action. Each Obligor agrees to take corresponding steps with respect to each new or acquired trademark, trademark registration, or application therefor covered by Paragraph 3 hereof. Any expenses incurred in connection with such activities shall be borne by the Obligors, and each

Obligor agrees to promptly provide the Agent with written notice of any such actions or proceedings.

(d) Each Obligor shall perform all acts and execute all documents reasonably requested by the Agent at any time and from time to time to evidence, perfect, maintain, record and enforce the Agent's security interest in the Trademarks, including, without limitation, any trademarks falling under Paragraph 3.

(e) Until all of the Obligations shall have been satisfied in full and the Commitments shall have been terminated, no Obligor will enter into any agreement which is inconsistent with the Obligor's obligations under this Agreement without the Agent's prior written consent.

6. Remedies Upon Default; Power of Attorney.

(a) In addition to the grant of the security interest contained in Paragraphs 1 and 3 hereof, if any Event of Default under the Loan Agreement shall have occurred and be continuing, or if any Obligor fails to perform any agreement or to meet any of its obligations hereunder, upon the election of the Agent, all right, title and interest in and to the Trademarks shall be automatically granted, assigned, conveyed and delivered to the Agent or its designee. Each Obligor hereby irrevocably constitutes and appoints the Agent and any officer, agent or employee thereof, with full power of substitution, as its true and lawful attorney-in-fact upon the occurrence and continuance of an Event of Default with full irrevocable power and authority in the place and stead of each Obligor and in the name of such Obligor or the Agent's own name or the name of the Agent's designee: (i) to complete, date, execute and file, or cause to be filed, the Assignment attached hereto as Exhibit A and incorporated hereby by reference (the "Assignment") in the U.S. Patent and Trademark Office and in all other applicable offices, and to execute and deliver any and all documents and instruments which may be necessary or desirable to accomplish the purpose of the Assignment, including, without limitation, the right (but not the obligation) to prosecute applications in the name of such Obligor or the Agent, and to take any other actions deemed necessary by the Agent to maintain such registrations in effect; (ii) to collect proceeds from the Trademarks (including, by way of example, license royalties and proceeds of infringement suits); (iii) to convey in any transaction authorized by the Loan Agreement, any Goods covered by the registrations applicable to the Trademarks to any purchaser thereof; and (iv) to make payment or to discharge taxes or liens levied or placed upon or threatened against any goods covered by the Trademarks, the legality or validity thereof and the amounts necessary to discharge the same to be determined by the Agent in its sole discretion, and such payments made by the Agent to become the obligations of the Obligor to the Agent, due and payable immediately without demand. Such power, being coupled with an interest, is irrevocable.

(b) The Agent shall have, in addition to all other rights and remedies given it by this Agreement, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Trademarks may be enforceable, and, without limiting the generality of the foregoing, the Agent may, if any Event of Default under the Loan Agreement shall have occurred, immediately, without demand or performance and without other notice (except as set forth below) or demand whatsoever to any

Obligor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, the Trademarks, together with the goodwill of the business symbolized by the Trademarks, and after deducting from the proceeds of sale or other disposition of the Trademarks all expenses (including all reasonable expenses for brokers' fees and legal services), shall apply the residue of such proceeds in accordance with the terms of the Loan Agreement. Notice of any sale or other disposition of the Trademarks shall be given to the Obligors at least ten (10) days before the time of any intended public or private sale or other disposition of the Trademarks is to be made, which each Obligor hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, the Agent or any Lender may, to the extent permissible under applicable law, purchase the whole or any part of the Trademarks sold, free from any right of redemption on the part of any Obligor, which right is hereby waived and released. Each Obligor hereby agrees to execute any documents reasonably requested by the Agent in connection with any disposition hereunder.

(c) Upon the occurrence of the conditional assignment provided for herein, no Obligor shall have any right, title, or interest in or to any of the Trademarks and each Obligor shall cease and desist in the use of the Trademarks and of any colorable imitation thereof, and shall, upon written demand of the Agent, or pursuant to the terms of the Loan Agreement, deliver to the Agent all Goods bearing the Trademarks.

7. Termination of Agreement.

At such time as the Obligors shall completely satisfy all of the Obligations and the Commitments shall have been terminated, the Agent shall execute and deliver to the Obligors all deeds, assignments and other instruments as may be necessary or proper to re-vest in the Obligors title to the Trademarks and the goodwill of the business symbolized by the Trademarks, subject to any disposition thereof which may have been made by the Agent pursuant hereto.

8. Limitation of Liability and Indemnification.

Each Obligor hereby releases the Agent and the Lenders from, and agrees to hold the Agent and the Lenders free and harmless from and against, any claims arising out of any action taken or omitted to be taken with respect to the Trademarks (except to the extent of the Agent's or the Lenders' gross negligence or willful misconduct), and each Obligor agrees to indemnify the Agent and the Lenders from and against any and all claims, demands, suits, losses, damages or other expenses (including reasonable attorneys' fees) arising from or in any way related to the Trademarks and any trademark infringement claim.

9. Waiver and Amendment.

(a) No course of dealing between any Obligor and the Agent or the Lenders, nor any failure to exercise, nor any delay in exercising, on the part of the Agent or the Lenders, any right, power or privilege hereunder or thereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(b) This Agreement is subject to modification only by a writing signed by the parties hereto.

10. Cumulative Rights.

All of the Agent's and the Lenders' rights and remedies with respect to the Trademarks, whether established hereby or under the Loan Agreement, or by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently.

11. Severability.

The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

12. Survival.

The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.

13. Counterparts.

This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

14. Choice of Law.

The validity, construction and enforcement of this Agreement, and the determination of the rights and duties of the parties hereto shall be governed by the laws of the State of Georgia regardless of any choice of law or other provision that would result in the application of the laws of any other jurisdiction.

IN WITNESS WHEREOF, the undersigned have executed this Agreement under seal as of the day and year first above written.

OBLIGORS:

NETOPTIX CORPORATION

By: Charles E. Ball
Charles E. Ball
Authorized Signatory

[CORPORATE SEAL]

OPTICAL FILTER CORPORATION

By: Charles E. Ball
Charles E. Ball
Authorized Signatory

[CORPORATE SEAL]

LEISEGANG MEDICAL, INC.

By: Charles E. Ball
Charles E. Ball
Authorized Signatory

[CORPORATE SEAL]

AGENT:

**DEUTSCHE FINANCIAL SERVICES
CORPORATION**


By:  _____
Name: _____
Title: _____

EXHIBIT A

ASSIGNMENT OF TRADEMARKS AND GOODWILL

THIS ASSIGNMENT dated the ___ day of _____, _____, from _____, a _____ (the "Assignor"), to DEUTSCHE FINANCIAL SERVICES CORPORATION, as Agent (the "Assignee"), recites and provides:

WHEREAS, the Assignor is the owner of certain trademarks and service marks and the registrations and applications to register therefor listed in Schedule A hereto (the "Trademarks"); and

WHEREAS, the Assignee desires to obtain for the Lenders party to the September 30, 1999 Loan and Security Agreement among the Assignor, certain affiliates of the Assignor, the Assignee, and the lenders from time to time party thereto (the "Lenders"), all of the Assignor's right, title and interest in all such Trademarks.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Assignor hereby grants, assigns and conveys to the Assignee, its successors and assigns, the entire right, title and interest of the Assignor in and to the Trademarks, including without limitation all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), and the right to sue for past, present and future infringements, together with the goodwill of the business symbolized by the Trademarks. The Assignor acknowledges that it has granted the Assignee the right to secure the assets of the Assignor associated with the business symbolized by the Trademarks under separate agreement.

The Assignor further agrees to execute such further instruments and documents and perform such further acts as the Assignee may deem necessary to secure to the Assignee the rights herein conveyed.

The Assignor warrants and represents that it is the sole owner of the interest conveyed hereunder and that such interest is not the subject of any prior transfer, assignment, lien, mortgage or other transaction which would affect the Assignor's ability to transfer such interest.

The Assignor further agrees to indemnify the Assignee and the Lenders for any breach of the above warranty.

IN WITNESS WHEREOF, the Assignor has executed this Assignment under seal as of the day and year first above written.

[Assignor's name]

By: _____
Name: _____
Title: _____

SCHEDULE A
TRADEMARKS AND TRADEMARK APPLICATIONS

The following trademarks are owned by NetOptix Corporation:

TRADEMARKS: DESCRIPTION

Registered Trademarks

| | |
|------------------------|---|
| Galileo | |
| Galileo Electro-Optics | |
| ICE | For: High contrast optical devices, namely fiberoptic faceplates. |
| GALAXY | For: Medical instruments, namely arthroscopes |
| UltraVue | For: Optical devices, namely an optical fiber for use in an imaging scope accessory |
| MICROVISION | For: Optical instruments and apparatus, namely borescopes for inspection |
| FRACTAL FIBEROPTICS | For: Optical and electro-optical devices, namely fiberoptic faceplates |
| SANI-SCOPE | For: Medical apparatus, namely a disposable plastic anoscope |
| SANI-SPEC | For: Vaginal specula for diagnostic examinations |

The following trademarks are owned by OFC:

TRADEMARKS

DESCRIPTION

OFC

REDIMAX

For: Refractive/diffractive lenses and lens assemblies for use in cameras and other imaging and non-imaging optical systems

Unregistered Trademarks

SPEC LIGHT

For: Illumination device for Sani-Scope vaginal specula

SCHEDULE B

None

PMB_52021/145101/SCOOPER

TRADEMARK
REEL: 001982 FRAME: 0268

SCHEDULE A

LISTING OF TRADEMARK REGISTRATIONS AND APPLICATIONS

| <u>Reg./File</u> <u>Mark</u> | <u>Reg./Serial</u> <u>Status</u> | <u>Date</u> | <u>Number</u> |
|---|---|--------------------|----------------------|
|---|---|--------------------|----------------------|

0466156.04
CONDITIONAL ASSIGNMENT AND
TRADEMARK SECURITY AGREEMENT

RECORDED: 10/27/1999

TRADEMARK
REEL: 001982 FRAME: 0269